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Josef Fuerlinger - December 3, 2004
Examination by Mr. Cerski

10:21:36 1 A. I don't recall.
 10:21:37 2 Q. Did you ever visit Harley Davidson?
 20:21:41 3 A. On a private place, yes.
 10:21:46 4 Q. But for -- on behalf of Rotax?
 10:21:48 5 A. Never.
 10:21:52 6 Q. **And did Harley** Davidson ever visit Rotax?
 10:21:56 7 A. Rotax does not keep any records of

10:22:18 8 visitors, nor have we any file where we kept it. So
 10:22:23 9 it's -
 10:22:24 10 Q. To the best of your knowledge.
 10:22:25 11 A. It's not possible for me to -- to verify it
 10:22:34 12 and not possible to verify within Rotax, so I don't
 10:22:39 13 know.
 10:22:40 14 Q. were you ever involved in a meeting or a
 10:22:43 15 tour of the facility or anything of that nature at
 10:22:48 16 Rotax with Harley Davidson?
 10:22:50 17 A. No.
 10:23:05 18 Q. Now, the next category of engines that you
 10:23:09 19 produce are industrial, and I believe in a previous
 10:23:13 20 deposition that I read of yours you had said that was
 10:23:18 21 fire pumps; is that correct still today, or during
 10:23:21 22 that time period, 1998 to 2002?
 10:23:26 23 A. This portion of Rotax is a very
 10:23:29 24 insignificant -- insignificant volume. There is
 10:23:34 25 still used for fire pumps, I think, so --

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10:23:38 1 Q. Any other type of applications that the
 10:23:40 industrial engines are used for?
 10:24:00 3 A. There are some of the -
 10:24:08 4 (Translator and witness confer in
 10:24:15 5 German)
 10:24:16 6 THE INTERPRETER: Industrial
 10:24:18 7 lawnmower.
 10:24:20 8 Q. (BY MR. CERSKI): Any other applications for
 10:24:22 9 this?
 10:24:22 10 A. Not that I'm -- I'm aware.
 10:24:26 11 Q. And who -- what companies do you sell the
 10:24:30 12 industrial engines to?
 10:24:31 13 A. It's a European company which purchased at
 10:24:55 14 Rotax the
 -- for application in the
 10:25:00 15 industrial lawnmowers.
 10:25:01 16 Q. Okay. Do you know the name of the company?
 10:25:14 17 A. I don't recall,

10:25:14 18 is Q. How about the fire pumps?

10:25:20 19 A. This is a Canadian company which purchased
 10:25:26 20 at Rotax ex-works the -- this engine.
 10:25:33 21 Q. Do you know the name of that company?
 10:25:36 22 A. I don't recall the name.
 10:25:44 23 Q. okay. And the aircraft division -- I think
 10:26:01 24 just let my -- the rest of the outline get to

10:26:06 25 that because T think that I can pretty much cover the
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10:26:10 1 aircraft division.
10:26:12 2 The aircraft division is both
10:26:13 3 certified and uncertified engines; is that correct?
10:26:16 4 A. Rotax manufactures certified and
20:26:19 5 non-certified aircraft engines.
10:26:31 6 Q. Once you -- do you place any restrictions
10:26:35 7 on your customers as to where they can sell the
10:26:38 8 products that they incorporate Rotax engines into?
10:26:52 9 MR. KELLY: I'm just going to object
10:26:53 10 to the breadth of the question. I think it makes
10:26:56 11 it -- if you can understand. If you can, just break
10:27:00 12 it up.
10:27:00 13 MR. CERSKI: Sure.
10:27:01 14 (BY MR. CERSKI: Do you restrict
1.0:27:02 15 Bombardier, Inc., on where it could sell its products
10:27:05 16 that contain Rotax engines?
10:27:15 17 A. No.
10:27:18 18 Q. And any of your aircraft distributors, do
1.0:27:22 19 you place any restrictions on them as to where they
10:27:25 20 can sell the products -- well, the aircraft engines?
10:27:27 21 Because they distribute the engines themselves.
10:27:37 22 A. We do have with most of the authorized
10:27:4G 23 distributors for Rotax aircraft engines an agreement,
10:27:49 24 and according to this agreement it's defined the
10:27:56 25 products and the territory for which those are - and

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10:28:05 1 mean the authorized distributors are --
10:~8:07 2 responsible.
10.28:08 3 MR. CERSKI: Okay. off the record for
10:28:12 4 a minute, please.
08:08:29 5 (Discussion off the record)
10:28:47 6 Q. (BY MR. CERSKI: Now, does Rotax also sell
10:28:50 7 replacement parts?
10:28:53 8 A. The authorized distributor purchases spare
10:29:04 9 parts at Rotax Gunskirchen, Austria, with those
10:29:13 10 engines which are defined in the contract for the
10:29:18 11 Rotax aircraft engines.
1-0:29:19 12 Q. And how about your other -- your other
10:29:23 13 customers, such as Bombardier, do they purchase spare
10:29:26 14 parts?
10:29:27 15 A. They purchase spare parts, yes.
10:29:34 16 Q. And Harley Davidson?
10:29:45 17 A. Yes.
10:29:50 18 Q. Does -- Harley Davidson, did they purchase
10:29:53 19 spare parts during the time frame 1998 to 2002?
10:30:01 20 A. To the fact that I'm not involved in the
10:30:46 21 direct sales administration, I personally don't know.
10:30:52 22 Q. The purchase orders that we talked about
10:30:54 23 earlier, they would cover the purchase of spare

10:30:57 24 parts?
 10:30:57 25 A. They would cover it.

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10:30:58 1 Okay. And Aprilia and BMW, do they
 10:31:04 2 purchase spare parts?
 10:31:05 3 A. Yes.
 10:31:25 4 Q. Let's talk a little bit about the governing
 10:31:29 5 structure of Rotax. Do you understand my question?
 10:31:35 6 A. Yes.
 10:31:35 7 Q. Okay. Who runs -- and when I say "who," I
 10:31:53 8 mean title, the person.
 10:31:55 9 Who runs Rotax at the top on a
 10:31:59 10 day-to-day basis?
 10:32:03 11 MR. KELLY: Title.
 10:32:04 12 THE WITNESS: Geschaetsfuehror.
 10:32:09 13 THE INTERPRETER: It's translated
 10:32:11 14 either as manager director or as general manager.
 10:32:21 15 Q. (BY MR. CERSKI).- And who was that person
 10:32:23 16 during 1998 to 2002?
 10:32:36 17 A. There have been certain changes in the
 10:32:40 18 period of time.
 10:32:41 19 Q. Okay. Can you tell me who -- I mean how
 10:32:43 20 many changes?
 10:32:53 21 A. By my recollection, three.
 10:32:55 22 Q. Okay. Can you tell me who those three
 10:32:57 23 people were?
 10:32:57 24 A. Mr. Lucea, Mr. Lewis and Mr. Ploeckinger.
 10:33:40 25 Q. Does this general manager report to

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10:33:43 1 someone?
 10:33:57 2 A. What is the definition of "someone"?
 10:33:59 3 Q. Okay. Does it -- does he or she have a
 10:34:03 4 boss?
 1.0:34:12 5 MR. KELLY: You mean an individual?
 10:34:13 6 Because -
 10:34:14 7 MR. CERSKI: Yeah, I mean -
 10:34:14 8 MR. KELLY: You already asked who
 10:34:15 9 the top person was.
 10:34:17 10 MR. CERSKI: I understand that.
 10:34:19 11 Q. (BY MR. CERSKI): Well, I guess what I'm
 10:34:20 12 asking is ,
 10:34:21 13 MR. KELLY: Who does that person
 10:34:22 14 report to?
 10:34:23 15 Q. (BY MR. CERSKI) -- who do they report to?
 10:34:25 16 Are they the end-all or do they report to someone
 10:34:28 17 else, for example, someone at BRP, the division at
 10:34:33 18 that time?
 10:34:36 19 A. Rotax -- I mean Bombardier-Rotax GmbH is an
 10:34:46 20 Austrian corporation fully under Austrian law and,
 10:34:56 21 therefore, the general manage -

10:35:02 22 THE WITNESS: General managing
 10:35:03 23 director? How do you say?
 10:35:05 24 THE ~~GENERAL~~ Manager,
 10:35:07 25 yeah.

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10:35:09 1 -- ~~WITNESS~~ to a
 10:35:12 2 supervisor report.
 10:35:12 3 Q- Does ~~(BMeG)~~ ~~GENERAL~~ Manager
 10:35:20 4 report to the president of the Bombardier
 10:35:24 5 Recreational Products division of Bombardier, Inc.?
 10:35:32 6 A. the Austrian law he has the ~~from~~ to
 10:35:41 7 report to the supervisory board.

10:35:43 8 Q- Well, I understand that. But does he

10:35:46 9 report to Bombardier Recreational Products division
 10:35:49 10 at Bombardier, Inc.?
 10:36:06 11 A. As I said, Rotax is a fully independent
 10:36:10 12 Austrian organization.
 10:36:11 13 Q. That's not my question.

10:36:12 14 my question is: Does the general
 10:36:16 15 manager report to the president of Bombardier
 10:36:20 16 Recreational Products division at Bombardier, Inc.?
 10:36:39 17 (Translator and witness confer in
 10:36:42 18 German)
 10:36:48 19 THE INTERPRETER: He -- lie asked whaL

1D:36:S3 20 the definition of the term "report," what it

10:36:56 21 involved. I think it's not a language problem;
 10:36:59 22 it's -
 10:37:01 23 MR. CERSKI: A definILion problem.
 10:37:02 24 T14E-~~INTERPRETER~~
 10:37:04 25 problem.

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10:37:04 1 Q- (BY MR. CERSKI): Okay. It's one of those
 10:37:21 2 words that's so hard to define.
 10:37:24 3 MR. KELLY: I'll just have to let you
 10:37:28 4 work this one out on your own.
 10:37:57 5 Q. (BY MR. CERSKI): Let me ask it this way:
 10:38:01 6 Does the Bombardier Recreational Products division
 10:38:05 7 president supervise the general manager of Rotax?
 10:39:09 8 A. I don't know.
 10:39:18 9 Q. Who hires the general manager of Rotax?
 10:40:00 10 A. By my understanding the corporate structure
 10:40:05 11 of Rotax, and I can only speak for Rotax itself, that
 10:40:10 12 would be a decision by the shareholders.
 10:40:34 13 Q- Does Bombardier, Inc., approve or
 10:40:38 14 disapprove of the selection of the general manager of
 10:40:41 15 Rotax?
 10:40:50 16 A. I don't know.
 10:42:23 17 Q. Okay. You spoke earlier of the supervisory

1D:42:27 18 board for Rotax. Who is on that board?
10:42:32 19 A. I don't recall all the names because I'm
10:42:51 20 not a part of the supervisory board therefore, I
10:42:55 21 have only a limited knowledge
10:42:57 22 Q. Okay. Can you give me the knowledge that
10:43:01 23 you do have?
10:43:02 24 A. There would be -- on the supervisory board
10:43:07 25 there would be unions, some external ex -- some

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10:43:14 1 external experts and some members of the
10:43:25 2 shareholders.

10:43:31 3 Q. When you say "members of the shareholders",
10:43:34 4 do you mean Bombardier, Inc.?

10:43:37 5 A. Correct.

10:43:46 6 Q. So earlier when you said that the
10:43:49 7 shareholders would select the general manager, you
10:43:54 8 meant that Bombardier, Inc., would select the general
10:43:57 9 management?

10:43:58 10 MR. KELLY: Object to form. You can
10:44:00 11 answer.

10:44:16 12 THE WITNESS: I never have been
10:44:19 13 involved in the selection of a general manager, so I
10:44:20 14 cannot answer the question. It would be the
10:44:23 15 appropriate way to ask the shareholder.

10:44:26 16 Q. (BY MR. CERSKI): Okay. Do you believe that
1.0:44:32 17 the supervisory board is knowledgeable about Rotax's
10:44:39 18 business?

1.0:44:39 19 A. Yes.

10:44:44 20 Q- Do you find the board to be authoritative
10:44:47 21 on matters that relate to Rotax?

10:44:49 22 A. Sorry. Can you break it down, please.

10:44:51 23 Q- Sure. Do you find the board to be
10:44:55 24 authoritative on matters that relate to Rotax?

10:44:58 2S MR. KELLY: Object to form. what do

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10:44:59 1 you mean it by "just as it was" what's
10:45:03 2 of a lot of different meanings, especially in
10:45:06 3 a legal context.
10:45:07 4 Q_ (BY MR. CERSKIE): Okay. What I mean is: Do

10:45:09 S they have -- let me ask it a different way.

10:45:31 6 Actually, I'll just switch on it altogether. Maybe
10:45:36 7 I'll come back to it. Let's talk about the synergy
10:45:45 8 between Rotax and Bombardier. Okay? That's what
1.0:45:49 9 this next part is going to cover.
10:45:53 10 You understand that Bombardier owns
10:45:57 11 at least at this time period -- Rotax?
10:46:02 12 MR. KELLY: Question?

10:46:03 13 Q. Do you understand what?
10:46:06 14 A. During this safe period from 1998 -

10:46:18 15 Q_ To 2002.
 10:46:20 16 A. 2002, Bombardier, Inc., owned Rotax.
 10:46:42 17 Q. And as the owner of Rotax, Bombardier,

 10:46:49 18 Inc., is involved in the day-to-day operations of
 10:46:53 19 Rotax, is it not?
 10:46:56 20 A. No.
 10:46:56 21 Q. So you do not agree that they have some
 10:47:01 22 substantial control over how Rotax operates on a
 10:47:05 23 day-to-day basis?
 10:47:08 24 MR. KELLY: Object to form. You can
 1.0:47:09 25 answer.

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10:47:10 1 THE WITNESS: I do not agree to
 10:47:12 2 your -- sorry. They have no involvement on the
 10:47:16 3 day-to-day business.
 10:47:17 4 Q_ (BY MR. CERSKI): And when I refer to
 10:47:22 5 "involvement," just so I'm clear, I'm talking about
 10:47:26 6 policy, how things operate, not necessarily being out
 10:47:29 7 on **the factory floor or**, you know, directing the
 10:47:34 8 laborer how to produce something. I mean how the
 10:47:37 9 business actually runs.
 10:47:39 10 A. Sir, I have difficulties to understand your
 10:47:41 11 questions because you ask some definitions in one
 10:47:45 12 phrase, so it's not possible to answer them for me.
 10:47:48 13 Q. What I was trying to do is I was trying to
 10:47:52 14 clarify for you what I meant by "control," just so I
 10:47:55 15 had a full understanding of your answer. And my
 10:47:59 16 question is -- my definition is when I'm referring to
 10:48:04 17 "control," I'm not just referring to -- let's take
 10:48:10 18 that back.
 10:48:10 19 When I refer to "control" and
 10:48:11 20 "day-to-day operations," I'm not just referring to
 10:48:15 21 producing the engine on the factory floor or dealing
 10:48:19 22 with a labor union. I'm speaking about the policies
 10:48:26 23 and the overall operation of Rotax. Do you
 10:48:31 24 understand what the basis of my -- what I'm talking
 10:48:34 25 about?

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10:48:35 1 MR. KELLY: Object to form.
 10:48:37 2 MR. CERSKI: wasn't a question

 10:48:38 3 yet.
 10:48:39 4 MR. KELLY: yeah, you asked him

 10:48:41 5 if he understood.
 10:48:43 6 MR. CERSKI: Well, I -- he said he
 10:48:43 7 didn't understand -- I was asking it too broad, so I'm
 10:48:45 8 just trying to have a dialogue with him to understand
 10:48:50 9 what I mean by "control."
 10:48:52 10 MR. KELLY: I think that he answered
 10:48:53 11 the question a minute or two ago when he said that
 10:48:56 12 there was no involvement, whatever it was that he
 10:48:59 13 said. I don't think he had difficulty understanding
 10:49:01 14 your question.

10:49:03 Q_ (BY MR. CERSKI): Did you have difficulty
 10:49:06 16 understanding my previous question, whether or not
 10:49:08 17 there was any control over Rotax on a day-to-day
 10:49:11 18 basis?
 10:49:13 19 A. If I recall your question in a certain
 10:49:14 20 sentence, you asked me did Bombardier, Inc., have
 10:49:18 21 control in the day-to-day operations of Rotax, and I
 10:49:22 22 said no.
 10:49:24 23 Q. Okay. Let me show you a couple of
 10:49:30 24 documents if I could.
 10:49:40 25 MR. KELLY: Off the record.

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16:08:18 1 (Discussion off the record)
 10:49:53 2 Q. (BY MR. CERSKI): This is marked as
 10:49:54 3 Fuerlinger 1A, but it was previously marked as
 10:49:58 4 Ferland 14.
 10:50:19 5 THE COURT REPORTER: Can we go off the
 10:50:20 6 record for a second.
 10:50:21 7 (Discussion off the record)
 10:51:07 8 MR. KELLY: Both counsel have
 10:51:09 9 stipulated that until a final agreement is worked out
 10:51:12 10 with regard to confidentiality, we will treat the
 10:51:15 11 testimony and all the documents as confidential.
 10:51:22 12 Work for you?
 10:51:23 13 MR. CERSKI: That's fine.
 10:51:24 14 (Discussion off the record)
 10:51:48 15 Q. (BY MR. CERSKI): Have you ever seen these
 10:51:49 16 documents before, Mr. Fuerlinger?

 10:51:52 1.7 A. No.
 10:51:53 18 Q. No.
 10:51:56 19 A. Unless today.
 10:51:57 20 Q- so this is the first time you have seen
 10:51:59 21 them?
 10:51:59 22 A. Yeah.
 10:52:00 23 Q. And these documents are Bombardier, Inc.'s,
 10:52:07 24 policy manual?
 10:52:09 25 MR. KELLY: Policy manual.

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10:52:10 1 Q. (BY MR. CERSKI): From my understanding.
 10:52:13 2 THE INTERPRETER policy what?
 10:52:15 3 MR. CERSKI: Manual.
 10:52:16 4 MR. KELLY the record, by my
 10:52:17 5 recollection it doesn't appear to be all of it.
 10:52:20 6 MR. CERSKI Okay. That's fine.
 10:52:24 7 MR. KELLY Everything produced.

 10:52:26 a MR. CERSKI excerpts.

 10:52:26 9 MR. KELLY: Is there any rhyme or
 10:52:27 10 reason to the excerpts, or is it a collection of
 10:52:30 11 things you want to ask about?

10:52:32 12 MR. CERSKI: Yeah, I just have some
 10:52:33 13 specific comments to see if -
 10:52:38 14 Q. (BY MR. CERSKI): On the first page of this
 10:52:44 15 one marked Simeone 00631, do you see the area that
 10:S2:51 16 says "scope"?
 10:53:01 17 A. Yes, it says "scope" here.
 10:53:03 18 Q. And can you read what it says.
 10:53:06 19 A. "Applies to Bombardier, Inc., as a whole,
 10:53:11 20 to each group, division and/or subsidiaries (The
 1.0:53:22 21 corporation.)"
 10:53:26 22 Q. Is Rotax -- is Rotax within that definition
 10:53:30 23 of the scope?
 10:53:33 24 A. Yes.
 10:53:34 25 Q. So any Bombardier, Inc., corporate office

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10:S3:43 1 policy that has a similar scope would apply to Rotax?
 10:53:49 2 MR. KELLY: Object to the form. To
 10:53:50 3 the extent that it says what it says, he can answer
 10:53:55 4 the question.
 10:54:17 5 TRE WITNESS: I can only read what it
 10:54:19 6 says here, so that's all that I can tell you here.
 10:54:22 7 It says, "Applies to Bombardier, Inc., as a whole, to
 10:S4:26 8 each group, divisions and/or subsidiaries."
 10:54:31 9 Q. (BY MR. KELLY) can do this
 10:54:39 10 quickly rather than getting bogged down in this.
 10:54:47 11 policy regarding financial
 10:54:49 12 statements starting with Simeone 631, this statement,
 10:54:55 13 based on your previous testimony, would you
 10:54:59 14 agree that this applies to Rotax?
 10:55:23 15 A. I didn't read it in total, the
 10:55:32 16 documents therefore, I cannot answer you these
 10:55:35 17 questions. I would have to review the whole document
 10:55:39 18 to come to a conclusion if it applies or in which
 10:55:45 19 content it would be applicable for Rotax. Because
 10:55:48 20 Rotax is an Austrian corporation. It has to fulfill
 10:55:53 21 the obligation to the Austrian law; and, therefore,
 10:S5:55 22 maybe only an extract of this would be applicable to
 10:56:02 23 the Austrian company.
 10:56:02 24 Q- Okay.
 10:S6:D3 25 A. So that is -- may be used as a guideline

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10:56:09 1 for certain content to the Austrian -- to Rotax.
 10:56:28 2 Q. well, with the caveat that you would have
 10:56:32 3 to review the Austrian law to determine whether this
 10:56:35 4 applies or not, based on the face of the policy
 10:56:37 5 itself from Bombardier, this policy marked
 10:56:41 6 Financial Statements apply to Rotax based on the
 10:56:45 7 scope?
 10:56:45 8 MR. KELLY: Objecting. You're
 10:56:47 9 asking him to interpret or draw a conclusion from a

10:56:51 10 document that's -- that conclusion is fairly obvious
 10:56:55 11 from the words that follow the term "scope." I don't
 10:56:59 12 think it's necessary for him to draw that conclusion
 10:57:03 13 for you. Because you could ask him that every
 10:57:10 14 every one of those manuals which has a scope.
 10:57:12 15 WeMR, CERSKI: why I asked
 10:57:14 16 him -
 10:57:14.4 17 He's MR KELLY that Rotax is
 10:57:16 18 a division or is owned -- has a shareholder that's
 10:57:20 19 Bombardier, Inc., so beyond that you're drawing legal
 10:57:23 20 conclusions.
 10:57:24 21 ThMR! sCERSKI: asked cvcry
 10:57:26 22 time I see "scope," does that mean that that policy
 10:57:29 23 should be applicable to Rotax, and he said he can't
 10:57:33 24 answer the can't answer that, but I need to
 1.0:57:35 25 go through and show him particulars in ordcr to ask

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10:57:39 1 him the question.
 10:57:41 2 MR. KELLY: Okay.
 10:57:44 3 MR. CERSKI: I mean, I would like to

 10:57:45 4 do it the short way if I can; but if I can't, then I
 10:57:SO S can't.

 10:57:50 6 MR. KELLY: Okay. Off the record.
 1.0:57:53 7 MR. CERSKI: Sure.
 10:57:55 8 (Recess taken)

 11:14:01 9 Q. (BY MR. CERSKI) I don't belabor this

 11:14:05 10 toomuch further, I'm going to ask a repetitive

 11:14:08 11 question just so I can clarify my understanding, and

 11:14:11 12 then maybe ask a few follow-up questions and then get
 11:14:14 13 off of this.
 11:14:16 14 When we're referring to this scope
 11:14:18 15 here on 631, is it your testimony that the way it's
 11:14:26 16 written it does apply to Rotax un less there's some
 11:14:29 17 Austrian law that would essentially trump this?
 11:14:36 18 MR. KELLY: God luck with "trump."
 11:14:38 19 MR. CERSKI: Yeah, sorry.

 11:14:40 20 Q. (BY MR. CERSKI) It would essentially

 11:14:41 21 supersede it.

 11:14:55 22 A. I would say it would be used as a reference

 1.1:14:59 23 document or a guideline for Rotax Austria and Rotax
 11:15:02 24 has to follow their own procedure according to the
 11:15:04 25 Austrian law.

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Examination by Mr. Cerski

11:15:05 1 Q- Okay. Does Rotax have the Bombardier
 11:15:14 2 policy manual?
 11:15:36 3 A. Yes.
 11:15:37 4 Q- And are there certain Bombardier policies
 11:15:SO 5 that because of Austrian law do not apply to Rotax?
 11:15:55 6 A. That's **correct**.
 11:15:56 7 Q. can you provide me with any of those
 11:16:00 8 A policies that don't apply to Rotax?
 11:16:04 9 MR. KELLY: Examples you mean?
 11:16:07 10 Q. (BY MR. CERSKI) Examples, yes. I'm sorry.
 11:16:09 11 A. Just as an example I would make the
 11:16:13 12 traveling policy. Rotax has its own traveling
 11:16:17 13 policies to comply with the Austrian law, system and
 11:16:22 14 regulations.
 11:16:22 15 Q. Any other examples that you can think of?
 11:16:32 16 A. There might be some more. Because we have
 11:16:38 17 a different working law as -- may be not as
 11:16:42 18 accomplished. So we have to respect the working law
 11:16:46 19 as -- for one thing, assessing the working law as one
 11:16:48 20 very critical law, and there would be definitely a
 11:16:53 21 different system and policy in place.
 11:16:56 22 Q. Anything else that you can think of?
 11:17:02 23 A. Not I'm recalling.
 11:17:02 24 Q. Okay. I'm going to show you what is marked
 11:17:31 25 as Exhibit No. 9 or Appendix 9. And --

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11:18:04 11:18:04 11: 18:07 11: 18:09 11:28:12 11:18:17 11:18:23 11: 11:18:04 11: 18:07 11: 18:09 11:28:
 19:06 19:06 19:06 11: 19:08 11: 19:10 11: 19: 12 11: 19: 14 11: 19: 16 04 :04: 15 11: 19: 52 11:2 19:06 11:
 11:20:26

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

Q.

quick.

21

11:20:27 22 Q.

11:20:32 23

11: 2 0 :4 0 24
 11 : 2 0 :4 6 2S

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MR. KELLY: Could we just get an identification for the record what it is.

MR. CERSKI: Sure. This is the Minutes of the Supervisory Board of
 Bombardier-Rotax held on March 20th, 2001. It's Bates stamped 2232 through 2245, and I am
 referring to Bates No. 2243 and 2244 under the category of "Other Business."

Q- (BY MR. CERSKI): I've highlighted a couple

of sections there.
section.

If you can just read over that

MR. KELLY: Just for the record, I'll advise the witness to -- that lie doesn't have to limit himself to the highlighted portions.

MR. CERSKI: Oh, that's okay.

MR. KELLY: He can get comfortab with the document and the dialogue.

(Discussion off the record, and
witness reads document.

le

(BY MR. CERSKI): Okay. Let me see it real

(witness complies)

(BY MR. CERSKI: So that T can get the players down, Mr. Ferland, he's a Bombardier, Inc employee? well, do you know Mr. Ferland? Yes.

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11:20:48	1	Q.	Yes, you know him?
11:20:49	2	A.	Yes.
11:20:50	3	Q.	And is he a Bombardier, Inc., employee?
11:21:00	4	A.	Yes.
11:21:00	5	Q-	Okay. And the Bombardier or Aerospace
11:21:09	6	Group that's referenced here, that's part of the	
11:21:12	7	Bombardier entity, Bombardier corporate -	
11:21:17	8	Bombardier, Incorporated? Actually, strike it. Let	
11:21:23	9	me rephrase it.	
11:21:24	10		Is the Aerospace Group a subsidiary
11:21:28	11		like Rotax is with regard to Bombardier?
11:21:30	22		MR. KELLY: Object to form. You can
11:21:32	13		answer.
11:21:33	14		THE WITNESS: No.
11:21:34	15	Q.	(BY MR. CERSKI)what is the
11:21:38	16	Aerospace	Group?
11:21:40	17	A.	By my definition Aerospace Group is
11:21:45	18		activiz:ies where -- complete aircraft for commercial
11:22:26	19		operations.
11:22:27	20	Q.	The Aerospace Group is not a part of
11:22:30	21	Bombardier-Rotax?	
11:22:31	22	A.	No.
11:22:31	23	Q.	Okay. Now, in the minutes here,
11:22:36	24		Mr. Ferland is saying Lhat lie was approached by the
11:22:41	25		Aerospace Group to have Rotax -- the way I understand

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21:22:46 1 it --- facilitate the lease of a Lufthansa aircraft
11:22:54 2 for Lauda Air. Is that your understanding?
11:23:04 3 A. I can only read what the document says.
11:23:07 4 That's -- the qDestion occurred whether

11:23:29 S Bombardier-Rotax could lease an aircraft from Lauda

11:23:33 6 Air and sublease it to Lufthansa.
11:23:38 7 MR. KELLY: Reading from the document.
11:23:40 8 THE WITNESS: Reading from the
11:23:43 9 document.
12:23:43 10 Q. (BY MR. CERSKT): Do you know if this
11:23:44 11 occurred?

11:23:45 12 A. I don't k-now.
11:23:45 13 Q. Okay. Is it a normal practice for Rotax to

11:24:13 14 sublease aircraft?
11:24:17 15 A. No.
11:25:06 16 Q. I'm going to show you what's marked as
3-1:25:09 17 Puerlinger No. 11, which is the Supervisory
Board
11:25:12 18 Meeting Minutes from August 21st, 2001, Bates stamped
11:25:17 19 2263 to 2272, with the caveat that there are
11:25:27 20 attachments that are financial documents that I could
-11:25:30 21 not print out and they could just wouldn't come out.
11:25:36 22 My first queqtn for you is --
again,
11:25:51 23 I'm referring to you to the highlighted portion, but
12:25:53 24 if you need to read any of the text to get something
11:25:57 25 in context, by all means, do that who is

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11:26:00 1 Mr. Burrell?

11:26:39 2 A. The President of the Recreational.
11:26:45 3 Q. President of Bombardier Recreational
11:26:46 4 Products Group?
11:26:49 5 A. The Product Group.
11:26:50 6 Q. And you see in that paragraph that I've

11:26:53 7 highlighted it refers to 4-tech. What is 4-tech?
11:26:58 8 A. 4-tech stands for four-stroke engine
11:27:06 9 technology.
11:27:06 10 Q. And is that -- I mean, is 4-tech a proper

11:27:12 11 name, meaning -- well, do you understand what I mean

11:27:17 12 by "proper name?"
11:27:19 13 (Interpreter interprets)
11:27:24 14 MR. KELLY: Trade name.

11:27:26 15 MR. CER SKIYes, trade name.
11:27:27 16 Exactly.

11:27:28 17 (Interpreter interprets)
11:27:34 18 THE WITNESS: It is a trade name.

11:27:36 19 Q_ (BY MR. CERSKI): And is the technology that
 11:27:37 20 4-tech refers to patented?
 11:27:58 21 (Interpreter interprets)
 11:28:19 22 THE WITNESS: Yes.
 11:28:20 23 Q_ (BY MR. CERSKI): And who holds that patent?
 11:28:26 24 A. Bombardier-Rotax GmbH, Austria.
 11:28:29 25 Q_ Okay. And the text of that, that

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11:28:35 1 highlighted portion that I'm referring to, seems to
 11:28:38 2 be saying that there's some discussion or sharing of
 11:28:44 3 information with regard to the 4-tech technology
 11:28:47 4 and -- I'm sorry, just let me see this -- and stride
 11:28:S8 5 in its outboard application?
 11:29:04 6 MR. KELLY: Question?
 11:29:06 7 Q. (BY MR. CERSKY)eah. Do you know what
 11:29:07 8 that means?
 11:29:09 9 A. You don't mind if I read the complete -
 11:29:12 10 Q. You read what you need to.
 11:29:13 11 (Witness complies, and discussion off
 11:29:13 12 the record)
 11:30:S6 13 Q. (BY MR. CERSKY)you know what that's
 14 referring to?

11:31:00 15 A. Can you repeat the question again.
 11:31:02 16 Q. Sure. When it's -- when it's referring to,
 11:31:08 17 "for the time being but there is a project ongoing at
 11:31:15 18 Rotax and our people over there for the adaptation of
 11:31:18 19 the 4-tech engine that we just will stride in an
 11:31:22 20 outboard application," what is ouLboard application?
 1,1:31:33 21 Let me ask it a different way.
 11:31:34 22 the outboard application fFerring
 11:31:36 23 to the outboard division that Bombardier now has, the
 11:31:40 24 OMC?
 11:31:44 25 A. I can only read what the content is, and I

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11:31:47 1 was not part in the discussion, so I don't know
 11:31:52 2 what -- in which content it was meant.
 11:31:58 3 Q- Are you aware that Bombardier-Rotax is
 11:32:00 4 trying to adapt the 4-tech engine for an outboard
 11:32:06 5 application?
 11:32:OB 6 MR. KELLY: Object to form. You can
 11:32:09 7 answer.
 11:32:28 8 THE WITNESS: Yes.

11:32:28 9 Q. (BY MR. CERSKI) what will that
 11:32:34 10 application be used on -- for -- strike that.
 11:32:38 11 What's the purpose of adapting the
 11:32:40 12 4-tech for an outboard application?
 11:33:20 13 A. There could be many purposes to such.
 11:33:23 14 Q. Who is it being adapted for?
 11:33:28 15 A. There was a project, but it never
 11:33:44 16 materialized into it~
 11:33:45 17 Q. Okay. And for that project, who was the
 11:33:48 18 project for?
 11:33:52 19 MR. KELLY: Object to form. Answer
 11:33:53 20 it.
 11:34:12 21 THE WITNESS: The use of Rotax 4-tech
 11:34:16 22 engines in an outboard marine application.
 11:34:19 23 Q. (BY MR. CERSKI) does Rotax produce
 11:34:20 24 outboard marina engines?
 11:34:24 25 A. No.

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11:34:24 1 Q. Would they after it was adapted, the 4-tech
 11:34:29 2 was adapted?
 11:34:39 3 A. If we would find a customer for those
 11:34:42 4 programs, we may would do it to produce such engine,
 11:34:47 5 but it has never been materialized into any such
 11:34:51 6 production.
 11:34:51 7 Q. **Was this a project that was between**
 11:34:56 8 Bombardier's OMC and Rotax?
 11:35:24 9 When I refer to "OMC," do you
 11:35:27 10 understand what I'm referring to?
 11:35:33 11 A. No.
 11:35:34 12 Q. Bombardier purchased I believe the outboard
 11:35:37 13 motor aspect of Johnson and -- is it Evinrude?
 11:35:43 14 MR. KELLY: Evinrude.
 11:35:45 15 Q. (BY MR. CERSKI): Evinrude. Arid my question
 11:35:47 16 is: When I'm referring to OMC, that's who I'm
 11:35:52 17 referring to in the outboard motors.
 11:35:54 18 And was this a project to adapt this
 11:35:58 19 4-tech technology for those Bombardier companies?
 11:36:16 20 A. You ask me too many questions at the same
 11:36:18 21 time. Can -- as I said before, I was not part in the
 11:36:41 22 supervisory board meeting, and I can only read out of
 11:36:44 23 this content. There was the intent to use Rotax
 11:36:51 24 engines, called 4-tech engines, maybe in other
 11:36:S7 25 applications such as outboard -- outboard applilcauioii

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11:37:00 1 as I mentioned here.
 11:37:02 2 Q. But you testified also that you were aware
 11:37:04 3 that there was a project going on with adapting the

11:37:07 4 4-tech technology.

11:37:08 5 A. Yeah. That was an internal Rotax project.
11:37:12 6 Q- No other participants?
11:37:17 7 A. I don't know. I am not involved in this
11:37:20 8 program -- program, so I don't know.
11:37:22 9 Q. Do you know who requested the projects?
11:37:30 10 A. No.

11:37:55 11 Q. I'm referring to 2272. I've highlighted

11:37:58 12 two paragraphs, but you may need to read a couple of
11:38:01 13 these paragraphs to get it in context.
11:39:18 14 (witness reads document)

11:39:28 15 Q- (BY MR. CERSKI) Polaris?
11:39:34 16 MR. KELLY: It's "Polaris."
11:39:36 17 Q. (BY MR. CERSKI), sorry.

11:39:39 18 A. Polaris is a manufacturer of products.
11:39:45 19 Q. Do they manufacture engines?
11:39:48 20 A. I don't know.
11:39:48 21 Q. How about Kawasaki?
11:39:52 22 MR. KELLY: What?

11:39:53 23 Q. (BY MR. CERSKI) Who were they -- no. Do

11:39:56 24 They manufacture engines?
11:39:59 25 A. I have never been to Kawasaki.

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11:40:02 1 Q. Right. But are you familiar with Kawasaki?

11:40:06 2 A. T know the name, yes.
11:40:07 3 Q. And do you know what they do?
11:40:10 4 A. General knowledge, motorcycling.
11:40:18 5 Q. And do you know if they also produce
11:40:21. 6 engines?

11:40:22 7 A. As I said, I have never been. If they have

11:40:25 8 it in-house or not in-house, I don't know.
11:40:29 9 MR. KELLY: Off the record.
11:40:30 10 MR. CERSKI: Yeah.
16:08:18 11 (Discussion off the record).
11:40:45 12 Q. (BY MR. CERSKI): Do you know what Ficht

11:40:47 13 injectors are?
11:40:51 14 A. In general, yes.
11:40:53 15 Q. Does Bombardier-Rotax use Ficht injectors?
11:40:59 16 A. No.

11:40:59 17 Q. And what product do you use that

11:41:02 18 substitutes for that?
12:41:04 19 MR. KELLY: object to form.

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11:41:51 1 Q. And who is Mr. Po etzlberger?
11:42:13 2 A. The chairman of the supervisory board of
11:42:15 3 Rotax.
11:42:15 4 Q- Of Rotax. And the chairman is asking if

laris got some engin~~s~~^{ds} from OMC; and Mr. Burrell,

11:42:26 6 the President of the Bombardier Recreational Group,
11:42:30 7 then goes on to say that we're supplying them the
11:42:35 8 Ficht injectors and controls for their PWC, personal
11:42:41 9 water craft application, and we do the same with
11:42:43 10 Kawasaki. Those contracts were already established
11:42:48 11 formerly with OMC so that when we acquired, we took
11:42:52 12 over those contracts. We could not have decided to
11:42:S5 13 supply them -- could not have decided not to supply
11:42:58 14 them but we increased the prices for a reasonable
11:43:02 15 number.
11:43:03 16 Is it normal for Rotax to learn of

11:43:09 17 the -- the pricing of contracts of competitors?
11:43:14 18 A. No.
01:01:01 19 (Discussion off the record)
11:46:00 20 Q- (BY MR. CERSKI): I'm going to show you

11:46:02 22 what's marked Fuerlinger 13. It's Bates document

11:46:05 22 2307 to 2308, and it's Rotax minutes from the
11:46:09 23 supervisory board from the 18th of 2000 (sic). And
11:46:16 24 for this purpose if maybe you would just read the
11:46:19 2S highlighted portion first and then let me ask my

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11:46:21 1 question, and then if you need to go back -
11:46:38 2 (Witness reads document)
11:46:39 3 Q. (BY MR. CERSKIE): Do you know what -- do you
11:47:55 4 have any knowledge with regard to the loan that

11:47:58 S they're referencing here?

11:48:00 6 A. No.
11:48:00 7 Q. So before reading this today, you were not
11:48:02 8 aware of this loan?
11:48:03 9 A. No.

11:48:04 10 Q- Are you aware of loans in general that
11:48:07 11 Rotax makes to Bombardier entities?
11:48:11 12 A. No.
11:48:28 13 Q. Are you aware of any other loans that Rotax
11:48:31, 14 has made to any entity?
11:48:33 15 A. No.
11:49:03 16 Q. I'm going to refer to what's marked as
11:49:05 17 Fuerlinger 14, and it's the Supervisory Board Minutes
1.2:49:09 18 of August 22nd, 2000, and Bates numbers 2320 to 232S.
11:49:38 19 Okay. I'm going to point you to some
11:49:41 20 highlighted sections. You can review those and the
11:49:44 21 others for context.
11:50:22 22 (Witness reads document, and
11:50:23 23 discussion off the record)
11:51:03 24 Q- (BY MR. CERSKIE): Do you have knowledge
11:51:12 25 about this new V-6 engine?

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11:51:16 1 A. Yes.
11:51:18 2 Q- And this was -- the development of this
11:51:23 3 engine took place in the aircraft engine sector; is
11:51:26 4 that correct?
11:51:30 5 A. Partly.

11:51:31 6 Q- Was that your section as the vice
11:51:34 7 president?

11:51:35 8 A. Yes.
11:51:38 9 Q. And Mr. Lewis you said is the general
taxi:40r was at one time?
11:51:48 11 A. He was at one time the general manager of
11:51:52 12 Rotax.
11:51:59 13 Q. And the discussion that is had -- that is

11:52:04 14 being taken place in this section is whether or not
11:52:08 15 to make a separate business unit for this v-6 engine.
11:52:13 16 Were you aware of this type of discussion?

11:52:34 20 A. He's the Chairman of the Board

11:52:36 21 BOMBERGIC RETAX.
11:52:37 22 Q- And the chairman of the Board said that I
11:52:41 23 don't think a new company should be founded so as to
11:52:44 24 avoid additional formalities, et cetera, and then

11:52:49 2S Mr. Lewis said, "We will make this decision depending

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11:52:53 1 on corporate office."
11:52:55 2 What corporate office are they

11:52:57 3 referring to?
11:52:57 4 A. That's the Bombardier, Inc.

11:53:02 5 Q. And this V-6 engine was a Rotax product?
 11:53:08 6 A. Is a Rotax product.
 11:53:11 7 Q- Do you based on your knowledge of the
 11:53:20 8 control that Bombardier has or does not have over
 11:53:24 9 Rotax, do you find it surprising that the decision as
 12:53:31 1.0 to whether or not to separate the V-6 product out as
 11:53:37 11 a separate business would be a decision depending on
 11:53:40 12 the corporate office?
 11:53:41 13 MR. KELLY: Object to form. You can
 11:53:45 14 answer.
 11:53:54 15 THE WITNESS: Rotax is making
 11:53:57 16 their own decision. Up to a certain limitation which
 11:54:02 17 is beyond, then we have to inform then the -- in that
 11:54:10 18 case we create a new identity, the corporate office
 11:54:16 19 as the shareholder.
 11:54:21 20 Q. (BY MR. CERSKI) So there are things that
 11:54:23 21 the board of supervisors can't do without the
 11:54:26 22 approval of the corporate office?
 11:54:27 23 MR. KELLY: Object to form.
 11:54:29 24 THE WITNESS: What I said is the
 11:54:37 25 supervisory board will make the decision as there is

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11:54:42 1 the shareholder also represented, and they will
 11:54:S2 2 determine for Rotax if we could do it or not.
 11:54:56 3 Q. (BY MR. CERSKI) Did the corporate
 11:54:58 4 office decide in this case whether or not to separate
 11:55:00 5 the V-6 product out as a separate business unit?
 1-1:55:09 6 A. The -- the project did not materialize
 11:55:14 7 because after this board meeting -- and I think it
 11:55:19 8 was in late 2002 -- the economics have been changed
 11:SS:35 9 and the project delayed, so it did not materialize.
 11:55:46 10 Q- Just to be clear, to separate a part of
 11:55:51 11 Rotax's business out as a separate business unit, the
 11:55:55 12 corporate office would have to make that decision?
 11:56:01 13 A. Well, Rotax can -- Rotax can do the
 11:56:05 14 decision if we separated out of it, but we would need
 11:56:09 15 to inform the supervisory board and the supervisory
 11:56:12 16 board with the shareholders present.
 11:56:15 17 Q- Okay. Well, I'm a little confused, though,
 11:56:20 18 because Mr. Lewis is stating we will make this
 11:56:23 19 decision depending on the corporate office.

11:56:26 20 And I'm just -- I'm trying to
 11:56:29 21 determine whether or not Rotax makes the decision or

 11:56:32 22 whether Bombardier makes the decision?
 11:56:34 23 MR. KELLY: object to the form.
 11:56:48 24 THE WITNESS: By my understanding as a
 11:56:50 25 Rotax employee, we have our own supervisory board

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11:56:54 which will make the decision for Rotax in Austria.
 11:57:22 2 Q- (BY MR. CERSKI) go on to ask
 11:57:24 3 you one other question, or maybe two.
 11:57:29 4 Mr. Lewis is telling the president of
 11:S7:35 5 the supervisory board that in this particular
 11:57:37 6 instance with regard to this V-6 -- the discussion

 11:57:40 7 that they're having -- we will make this decision

 11:57:43 8 depending on the corporate office; is that correct?
 11:S7:45 9 MR. KELLY: You mean is that what it
 11:57:47 10 says?
 11:57:47 11 Q. (BY MR. CERSKI): Yeah. Is Mr. Lewis

 1.1:57:50 12 responding to the Chairman of the Board's statement?
 1.1:57:53 13 MR. KELLY: Okay. I'll just object on
 1.1:57:55 14 the basis that he wasn't in attendance in the
 11:58:00 15 meeting; that he can't determine the minutes any
 11:58:03 16 better than anybody else in the room. With that he
 11:58:06 17 can answer.
 11:58:07 18 TBE WITNESS: I think the --

 11:58:11 19 Mr. Poetzlberger as the chairman of the supervisory
 11:58:15 20 board made it very clear that he is not in agreement
 11:58:18 21 (sic) with this strategy to avoid any additional
 11:58:24 22 formalities, et cetera; and since I think -- when I
 11:58:28 23 interpret the statement of Lewis, he was checking
 11:58:31 24 this with the corporate office if this would be an
 11:58:35 25 additional strength of what additional formalities or

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11-58:40 1 not.
 11:58:43 2 Q- (BY MR. CERSKI): reason to

 11:58:52 3 doubt what Mr. Lewis said here, do you? sorry?
 11:58:55 4 A.
 11:S8:56 5 Q. You have no reason to doubt what Mr. Lewis

 11:58:59 6 said here?
 11:59:01 7 A. I can only read what -
 11:59:03 8 MR. KELLY: Object to form. Go ahead.
 11:59:04 9 THE WITNESS: I can only read what

11:59:06 10 this is saying. I was not participating in this
 11 meeting.
 11:59:10 12 Q. (BY MR. CERSKI): okay. This is board
 11:59:30 13 minutes of November 17th, 1987, Bates stamped 2455
 11:59:34 14 through 2463.
 16:08:18 15 (Discussion off the record)
 12:00:15 16 Q- (BY MR. CERSKI): You're going to definitely
 12:00:17 17 need to read more of this for context, but the
 12:00:20 18 question I'm going to have for you is with regard to
 12:00:22 19 the highlighted sections. 2461 to 2462 is the area
 12:00:28 20 I'm referring to.
 12:00:29 21 (Witness reads document, and
 12:00:30 22 discussion off the record)
 12:00:42 23 MR. CERSKI: This is Exhibit 19.
 01:01:01 24 (Discussion off the record)

12:03:03 25 Q- (BY MR. CERSKI): for you, sir,
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I~~2:08~~ates here that ~~w~~e:shall not be asked
 12:03:14 2 whether or not we can afford an engine development
 12:03:15 3 for Ski-Doo/Sea-Doo. we shall simply be required to
 12:03:23 4 do it, why is that?
 12:03:44 5 MR. KELLY: Object to the form.
 12:03:55 6 THE WITNESS: As I said before, I was
 12:03:57 7 not part in the supervisory board, so I -- I
 12:04:04 8 cannot -- I don't know what the discussion was in
 12:04:07 9 detail about.
 12:04:10 10 (BY MR. QERSKI): Okay. Well, let me ask a
 12:04:12 11 couple more questions. Let me have this back. I'm
 12:04:15 12 sorry.
 01:01:01 13 (witness complies)
 12:04:22 14 (BY MR.QCERSKV: In general, if you can't
 12:04:24 15 afford an engine development, do you do it?
 12:04:38 16 ANo, unless it's from a strategic
 12:04:43 17 importance.
 Q. And~~0the~~ you may take a loan or something
 12:04:46 18 to be~~able~~left~~afford~~ to do it?
 12:04:49 A. Wh~~a~~ever would be required.
 12:04:52 21 So if BMQ.asked you to do some type of an
 12:04:56 22 engine development and you couldn't afford to do it,
 12:05:02 23 would you do it?
 12:05:03 24 MR. KELLY: Object Lo the form. Calls
 12:05:07 25 for sp~~ecula~~~~atio~~n answer.

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12:05:44 1 THE WITNESS: No.
 12:05:46 2 Q. (BY MR. CERSKV: And the person making the
 12:05:48 3 statement that I highlighted is Mr. Lucea and -- let
 12:05:59 4 me just see -- he was the manager director in 1997;
 12:06:12 S that's correct?
 12:06:13 6 A. That's correct.
 12:06:13 7 (Discussion off the

record, and recess
 12:06:36 8 taken)
 12:09:22 9 Q. (BY MR. CERSKI): Fuerlinger No. 9, minutes
 12:09:26 10 of March 20th, 2001, Bates stamped
 2232 to 2245. I'm
 12:09:42 11 going to point you to two areas that are highlighted
 12:09:46 12 here. My questions are
 fairly broad, so I don't
 12:09:49 13 think you're going to have to read it through for
 12:09:52 14 context; but if you do, feel free.
 12:09:55 15 I'm going to point
 you to on 2235,
 12:09:57 16 Poetzlberger and Burrell.
 12:10:47 17 (Witness reads
 document)
 12:10:49 18 Q. (BY MR. CERSKI): And my first question is:
 12:10:50 19 Mr. Poetzlberger, the chairman of the board, is
 12:10:55 20 asking whether a draft contract for the snowboard
 12:10:59 21 business has been approved by the corporate office,
 12:11:01 22 and it says yes.
 12:11:02 23 Now, my specific
 question is: Is that
 12:11:07 24 a Rotax contract that Mr. Poetzlberger is asking
 12:11:13 25 Mr. Burrell has been approved by the corporate

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12 :13

17 :2 2 :22 -26 :26 :2 6 :2 9 :2 9 11: 3 2 05 07 11 22 3 4 38

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12: 14 :01 :01 :04

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of f ice? A . business.

Q -products?

A. No.

Q. A .

Q.

Rotax is not involved in the snowmobile

But does it make engines for snow grooming

It does not?

(Witness shakes head.)

Does Rotax have to have corporate office-approved contracts? A. Q_

I don't know.

Do you know whether the corporate office approved the BMW contract between BMW and Rotax? MR. KELLY:
Object to the form. THE WITNESS: The contract between BMW Germany and Rotax Austria is a contract between the two companies here.

Q_ (BY MR. CERSKV: I understand that. My question was: Was a draft sent to Bombardier for approval before it was executed?

I don't know.

How about the distributor contracts that you oversaw as vice president of aircraft engines, were those contracts with you -- with Bombardier before being entered into?

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12:14:17	1	A.	Not by my knowledge.
12:14:41	2	Q-	Who would have knowledge of that, whether
1-2:14:45	3		Bombardier approves or has to approve draft contracts
12:14:50	4		that Rotax is about to enter into?
12:15:02	5	A.	You're talking about the distributor
12:15:04	6		agreement with certain authorized distributors for
12:15:08	7		aircraft engines?

12:15:09 8 Q. Well, we can use that one as an example,

12:15:12 9 but I'm also referring to the one with BMW, this one
 12:15:17 10 with the snow grooming engines, any con -- my

12:15:21 11 question is more broad. It's pretty much any
 12:15:24 12 contract.

12:15:24 13 Who would have knowledge whether Rotax
 12:15:27 14 has to get approval. from Bombardier with regard to
 12:15:30 15 contracts that it's about to enter into?

12:16:21 16 A. In the normal course of business of Rotax,

12:16:23 17 we would not need inform Bombardier, Inc., unless
 12:16:37 18 it has a significant impact to the shareholders.
 12:16:47 19 Q. And how is a significant impact determined?
 12:18:16 20 A. In regards to the financial profitability

12:18:22 21 which Rotax has been committed to deliver to the
 12:18:27 22 shareholders.

12:18:30 23 Q- Okay. So when Rotax entered into a
 12:18:35 24 contract with Aprilia and BMW to produce certain -- a
 12:18:42 25 certain engine for these motorcycles, was that of

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12:18:46 1 significant importance that Bombardier would need to
 12:18:51 2 he involved in the contract?
 12:19:04 3 A. By my recollection we don't have any
 12:19:07 4 contract with Aprilia.
 12:19:08 5 Q. okay. Focus then just on BMW.
 12:19:15 6 With regard to BMW, was it significant
 12:19:21 7 enough that you would have had Bombardier approve the
 12:19:28 8 contract?
 12:19:28 9 A. Sorry. Can you repeat that. I did not get
 12:19:31 10 your last sentence.
 12:19:32 11 Q. Sure. was it significant enough for BMW -
 12:19:37 12 was the contract between Rotax and BMW of such
 12:19:41 13 significance that Bombardier would need to be
 12:19:44 14 involved and approve the contract?
 12:20:29 15 A. Not that I'm recalling.
 12:20:52 16 Q. Were you involved in the contract between
 12:20:55 17 Rotax and BMW?
 12:20:57 18 A. No.
 12:20:59 19 Q. Have you been involved in negotiating
 12:21:06 20 contracts that had to be approved by Bombardier?
 12:21:14 21 A. No.
 12:21:15 22 Q. Is there a person at Rotax that would have
 12:21:21 23 direct knowledge as to whether or not contracts need
 12:21:24 24 to be approved by Bombardier?
 12:22:33 25 A. We don't have such a person.